

REMARKS

This reply is in response to the Office Action dated June 9, 2008, for which a response is due by September 9, 2008. In the Office Action, claims 9 – 18 were rejected under 35 U.S.C. 102(e) as allegedly being anticipated by U.S. Patent No. 7,017,700 to Frimberger et al. (“Frimberger”). Claims 9 – 18 remain pending. Reexamination and reconsideration in light of the remarks made herein are respectfully requested.

As mentioned above, independent claims 9, 17 and 18 are rejected in view of Frimberger. Frimberger as cited in the Office Action discloses detecting vehicle rollover and triggering a restraint device when rollover criterion exceeds a dynamic rollover threshold, *see column 3 lines 44-46*. The Office Action further asserts that Frimberger teaches that an airbag will not be activated under any circumstances in the case of vehicle rollovers which are preceded by a driving situation with a large inclination detected, however no citation of Frimberger is provided.

As taught by Frimberger, a rollover threshold is reduced based on a detected lateral acceleration during a critical vehicle situation, *see column 3 lines 57-59*. Additionally, the decision to fire a restraint device is reached at the moment at which rollover criteria exceeds the rollover threshold, *see column 4, lines 7-9*. Thus, based on dynamic vehicle parameters, one of ordinary skill in the art would recognize that the possibility of actuation of a restraint device based on a triggering decision would be increased due to travel behavior of a critical vehicle situation as taught by Frimberger. Further, an evaluation of

time profile of parameters that are sensed by Frimberger are not used to prevent actuation of a triggering device.

In contrast, the pending claims are directed to a method and apparatus for preventively actuating a vehicle safety device. As recited in independent claim 9, a plausibility checking stage evaluates a triggering decision as implausible and prevents actuation of a vehicle safety device if an evaluation of time profile of parameters that are sensed in the vehicle reveals that the travel behavior which is critical for safety corresponds, within predefinable limits, to a desired travel behavior. Wherein, the desired travel behavior brought about in a deliberate and controlled fashion by a vehicle operator. Frimberger does not teach a plausibility checking stage to evaluate a triggering decision as implausible. Frimberger as relied upon by the Office Action simply teaches a threshold value generator, *see column 3 lines 9 – 10, FIG. 3 SB*, which reduces a rollover threshold on the occurrence of lateral accelerations, *see column 3 lines 47 – 50*. To that end, Frimberger does not teach or suggest evaluating a triggering decision as implausible, as recited in claim 9.

In addition, no teaching is provided in Frimberger for evaluating a time profile of parameters that reveals that the travel behavior which is critical for safety corresponds to a desired behavior or a deliberate and controlled fashion, as recited in claim 9. Detecting a “large inclination”, *see office action page 1*, or a high angular acceleration as taught by Frimberger, *see column 3 lines 51 – 53*, does not teach or suggest a desired travel behavior. On the contrary, detection of such circumstances increases the chances of firing a restraint device. Further, Frimberger does not teach or disclose detecting or comparing user initiated

control of a vehicle. At best, Frimberger discloses comparison of angular speed to a rollover threshold, *see column 3 lines 44 – 46*. Thus, Frimberger fails to teach each of the claim recitations, therefore the rejection is improper.

In short, Applicant submits that Frimberger does not teach or disclose a plausibility checking stage that evaluates a triggering decision as implausible and prevents actuation of a vehicle safety device if an evaluation of time profile of parameters that are sensed in the vehicle reveals that the travel behavior which is critical for safety corresponds, within predefinable limits, to a desired travel behavior, which is brought about in a deliberate and controlled fashion by a vehicle operator. Claim 9 is now in condition for allowance.

Claims 10-16 are dependent on claim 9 and are in condition for allowance due at least to their dependence on allowable base claim 9.

Independent claim 17 recites determining the triggering decision is implausible if it is concluded that the critical travel behavior corresponds within predefinable limits, to a desired travel behavior, which is brought about by the driver in a deliberate and controller fashion. Claim 17 further recites preventing actuation of a vehicle safety device. Similarly, claim 18 recites determining a desired travel behavior based on vehicle control parameters that have values or profiles that are indicative of a deliberate vehicle control activity by a vehicle driver and inhibiting triggering of a vehicle safety device. Thus, independent claims 17 and 18, are allowable for similar reasons as cited above.

For the reasons set forth above, Applicant submits that rejection is improper and should be withdrawn. Accordingly, Applicant submits that all

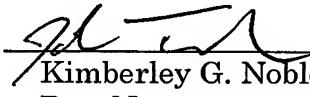
outstanding rejections have been addressed, and that the present application is in immediate condition for allowance. Notice to this effect is earnestly solicited.

If there are any questions regarding this response or the application in general, a telephone call to the undersigned would be appreciated in order to expedite the prosecution of the application.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #095309.56241US).

Respectfully submitted,

CROWELL & MORING LLP

By 
Kimberley G. Nobles
Reg. No. 38,255

John P. Teresinski
Reg. No. 59,621

Dated: August 20, 2008

CROWELL & MORING LLP
Intellectual Property Group
P.O. Box 14300
Washington, DC 20044-4300
Telephone No.: (202) 624-2500
Facsimile No.: (202) 628-8844

dn#6029573